

## Message Text

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ACTION EA-09

INFO OCT-01 ISO-00 FEA-01 ERDA-05 AID-05 CEA-01 CIAE-00

CIEP-01 COME-00 DODE-00 EB-07 FPC-01 H-02 INR-07

INT-05 L-03 NSAE-00 NSC-05 OMB-01 PM-04 USIA-06

SAM-01 OES-03 SP-02 SS-15 STR-04 TRSE-00 PA-01 PRS-01

/091 W

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R 150826Z MAR 76

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 3042

INFO AMEMBASSY JAKARTA

AMEMBASSY SINGAPORE

AMEMBASSY KUALA LUMPUR

C O N F I D E N T I A L MANILA 3645

E.O. 11652: GDS

TAGS: ENRG, RP

SUBJECT: ANOTHER PNOC ATTACK ON CALTEX?

REF: (A) MANILA 2320 (B) MANILA 3109

1. SUMMARY: PRESS REPORTS HAVE GIVEN A BIG PLAY OVER PAST WEEK TO MANILA ELECTRICCOMPANY (MERALCO) PETITION TO THE OIL INDUSTRY COMMISSION (OIC) TO REQUIRE CALTEX (PHILIPPINES), INC. TO CONFORM TO THE FUEL OIL PRICE CEILING SET BY THE OIC. CONTROLLED PRESS COVERAGE HAS PLAYED UP PRESUMED HIGHER ELECTRICITY COST TO CONSUMERS RESULTING FROM HIGHER CALTEX CONTRACT PRICE TO MERALCO, AND THE FACT THAT THE NATIONAL OIL MARKETING COMPANY, PETROPHIL, (A SUBSIDIARY OF PNOC) IS PREPARED TO SUPPLY MERALCO'S NEEDS AT THE CONTROLLED PRICE. END SUMMARY.

2. ROBERT STEWART, V.P. MARKETING, CALTEX HAS PROVIDED THE FOLLOWING BACKGROUND:

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DURING HEIGHT OF OIL CRISIS IN 1974, MERALCO CONTRACTED

WITH CALTEX FOR ASSURED SUPPLY OF 91,000,000 BARRELS OF FUEL OIL OVER A FIVE-YEAR PERIOD. CONTRACT WAS REVIEWED AND APPROVED BY GOP AT THAT TIME AND NOT MADE SUBJECT TO OIC REVIEW. THE PRICE HAS ALWAYS BEEN ABOVE THE OIC CONTROLLED PRICE, AND THE CONTRACT CALLS FOR ESCALATION TIED TO CRUDE PRICES. PRICE AT PRESENT IS 130.77 PESOS/BARREL COMPARED TO OIC PRICE CEILING OF 120.13 PESOS/BARREL. CALTEX SUPPLIES ABOUT 5,000 BARRELS/DAY, APPROXIMATELY 20 PERCENT OF MERALCO'S NEEDS, DIRECTLY UNDER THIS CONTRACT. IT SUPPLIES ANOTHER 20 PERCENT INDIRECTLY VIA A CRUDE SUPPLY CONTRACT WITH PHILIPPINE PETROLEUM COMPANY, WHEREBY PPC EXTRACTS LUBE OILS FROM CRUDE AND RESELLS FUEL OIL TO MERALCO. (INTERESTINGLY ENOUGH, PPC SELLS TO MERALCO AT THE PRICE PEGGED BY THE CALTEX/MERALCO CONTRACT.) EMBASSY COMMENT: PPC IS ONE OF FOUR PROFITABLE MERALCO SUBSIDIARIES RECENTLY SPUN-OFF INTO FIRST HOLDING CORPORATION, A COMPANY CONTROLLED BY MARCOS INTIMATES. WHILE MERALCO STOCK WILL EVENTUALLY BE DISTRIBUTED TO CONSUMERS, FIRST HOLDING WILL NOT. END COMMENT.

THESE TWO CONTRACTS REPRESENT APPROXIMATELY 20 PERCENT OF CALTEX'S GROSS SALES BY VOLUME IN THE PHILIPPINES. OTHER CURRENT MERALCO SUPPLIERS ARE PETROPHIL (18 PERCENT), AMOCO (35 PERCENT, SHELL (5 PERCENT), AND MOBIL (2 PERCENT). THE OIC HAS TWICE BEFORE BEEN ASKED TO RULE ON THE CALTEX/MERALCO CONTRACT AND EACH TIME RULED THAT 1) THE OIC HAS NO JURISDICTION AND 2) THE PRICE WAS REASONABLE.

3. THE PRESSURES ARE DIFFERENT THIS TIME AROUND, AND SEEM TO ORIGINATE FROM A SOURCE OTHER THAN JUST MERALCO. PETROPHIL'S PUBLIC OFFER TO STEP INTO THE BREACH IF CALTEX/MERALCO NEGOTIATIONS FAIL TENDS TO CONFIRM HIS. CALTEX POSITION IS FIRM THAT IT HAS A LEGAL BINDING CONTRACT THAT CANNOT BE OVERRULED BY THE OC. TO BE RESPONSIVE TO MERALCO'S PLEA FOR PRICE RELIEF, HOWEVER, CALTEX HAS MADE AN OFFER OF A PRICE CONCESSION BASED ON WHAT CALTEX EARNINGS CAN SUPPORT OVER THE 2 1/2 YEARS REMAINING ON THE CONTRACT, ACCORDING TO STEWART. MERALCO HAS PERSISTED IN ITS PETITION TO THE OIC AND IN ITS PRESS RELEASES ISSUED SUBSEQUENT TO THE OFFER, AND CALTEX IS CONFIDENTIAL

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CONCERNED THAT IF MERALCO PNOC COLLUSION IS PRESENT IN THIS CASE, A PRESIDENTIAL DECREE GIVING THE OIC JURISDICTION IS POSSIBLE.

4. THESE TWO LARGE CONTRACTS (MERALCO AND PPC) THAT DO NOT COME UNDER OIC PRICE CONTROL AT THE MOMENT MAKE THE DIFFERENCE BETWEEN PROFIT AND LOSS FOR CALTEX IN THEIR PHILIPPINE OPERATIONS. STEWART SAYS THAT CALTEX DOES

NOT QUESTION A SOVEREIGN GOVERNMENT'S RIGHT TO MAKE THE RULES, BUT IT WILL BE CALTEX WHICH DECIDES WHETHER TO PLAY THEIR GAME OR NOT. IT IS OBVIOUS THAT CALTEX IS CONTINUING TO SMART UNDER THE PNOC'S PERSISTENT ATTACK ON ALL FRONTS. EMBASSY WILL FOLLOW THIS LATEST INITIATIVE AND REPORT ON DEVELOPMENTS.

5. COMMENT: WE FEEL THAT ON THIS PARTICULAR ISSUE CALTEX IS BEING FORCED TO E-NEGOTIATE A CONTRACT THAT WAS ORIGINALLY ACCEPTED BY THE PHILIPPINES UNDER SIGNIFICANTLY DIFFERENT SUPPLY CONDITIONS IN THE HEIGHT OF THE OIL CRISIS. WITH OTHER OPTIONS AVAILABLE NOW, PHILIPPINES APPARENTLY IS NOT SHY ABOUT USING POWERS OF CENTRALIZED AUTHORITY, AND USING PETROPHIL AS THREAT, TO GET A BETTER DEAL FOR MERALCO, A COMPANY NOW CONTROLLED BY MARCOS INTIMATES. SULLIVAN

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